

1 RODGER R. COLE (CSB No. 178865)
rcole@fenwick.com
2 FENWICK & WEST LLP
Silicon Valley Center
3 801 California Street
Mountain View, CA 94041
4 Telephone: 650.988.8500
Facsimile: 650.938.5200
5

6 *Attorneys for Defendant Superfish, Inc.*

7 *Additional counsel listed on signature page*
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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION
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18 DAVID HUNTER, individually, and on
behalf of all others similarly situated,

19 *Plaintiff,*

20 v.
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22 LENOVO (UNITED STATES), INC., a
Delaware corporation, and SUPERFISH, INC., a
Delaware corporation,

23 Defendants.
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Case No.: 5:15-cv-00819-NC

**STIPULATION FOR CONTINUANCE
OF TIME FOR DEFENDANTS TO
RESPOND TO COMPLAINT AND
[PROPOSED] ORDER**

1 WHEREAS the above-referenced Plaintiff filed the above-captioned case;

2 WHEREAS 21 other complaints have been filed to-date in federal district courts
3 throughout the United States by Plaintiffs purporting to bring consumer class actions on behalf of
4 purchasers of computers manufactured by Defendant Lenovo (United States), Inc. (“Lenovo”)
5 containing software manufactured by Defendant Superfish, Inc. (“Superfish”) (collectively,
6 including the above-captioned matter, the “*In re Lenovo Adware Litig.* cases”);

7 WHEREAS a motion is pending before the Judicial Panel on Multidistrict Litigation
8 (“JPML”) to transfer the *In re Lenovo Adware Litig.* cases for coordinated and consolidated
9 pretrial proceedings pursuant to 28 U.S.C. Sec. 1407 (“MDL Motion”), and has not yet been set
10 for hearing before the JPML;

11 WHEREAS the MDL Motion is not on the docket for the JPML’s upcoming hearing
12 session, scheduled for March 26, 2015, and the next hearing session is scheduled for May 28,
13 2015;

14 WHEREAS the parties anticipate that one or more consolidated complaints will be filed
15 following transfer and consolidation of the *In re Lenovo Adware Litig.* cases;

16 WHEREAS Plaintiff and Defendants Superfish and Lenovo have agreed that an orderly
17 schedule for any response to the pleadings in the *In re Lenovo Adware Litig.* cases would be more
18 efficient for the parties and for the Court;

19 WHEREAS Plaintiff agrees that the deadline for Defendants Superfish and Lenovo to
20 answer, move, or otherwise respond to his complaint shall be extended until forty-five days after
21 the JPML issues an order deciding the MDL Motion, or as otherwise ordered by the MDL
22 transferee Court if the MDL Motion is granted;

23 WHEREAS Plaintiff and Defendants agree that preservation of evidence in the case is
24 vital, that Defendants have received litigation hold letters, that they are complying with and will
25 continue to comply with all of their evidence preservation obligations under governing law;

26 WHEREAS, in light of the pending MDL Motion, the parties have agreed that the parties’
27 obligations under Federal Rules of Civil Procedure 16 and 26(f) and any other pending deadlines
28 shall be stayed until further order from the Court or the MDL transferee Court if the MDL Motion

1 is granted;

2 WHEREAS this Stipulation does not constitute a waiver by the parties of any of their
3 respective claims, defenses or any other rights or positions they may have with respect to the
4 same, including, with respect to Defendants, the defenses of lack of personal jurisdiction, lack of
5 subject matter jurisdiction, improper venue, sufficiency of process or service of process;

6 Now, therefore, pursuant to Local Rule 7-12, Plaintiff and Defendants, by and through
7 their respective counsel of record, hereby stipulate as follows:

8 1. The deadline for Defendants Superfish and Lenovo to answer, move, or otherwise
9 respond to the complaint shall be extended until forty-five days after the JPML issues an order
10 deciding the MDL Motion, or as otherwise ordered by the MDL transferee Court if the MDL
11 Motion is granted;

12 2. The parties' obligations under Federal Rules of Civil Procedure 16 and 26(f) and
13 any other pending deadlines—whether set by the Local Rules of this District, the Federal Rules of
14 Civil Procedure, an order of this Court, or otherwise—shall be stayed until further order from the
15 Court or the MDL transferee Court if the MDL Motion is granted.

16 3. This Stipulation does not constitute a waiver by the parties of any of their
17 respective claims, defenses or any other rights or positions they may have with respect to the
18 same, including, with respect to Defendants, the defenses of lack of personal jurisdiction, lack of
19 subject matter jurisdiction, improper venue, sufficiency of process, or service of process.

20 4. The parties agree that they are complying with and will continue to comply with
21 all evidentiary preservation obligations under governing law.

22 5. Nothing herein precludes any of the parties from moving to lift the stay prior to the
23 extended deadlines requested herein.

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1 Dated: March 19, 2015

By: /s/ Rodger R. Cole

Rodger R. Cole (CSB No. 178865)
rcole@fenwick.com
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Ph: (650) 988-8500
Fax: (650) 938-5200

Attorneys for Defendant Superfish, Inc.

By: /s/ Rafey S. Balabanian

Rafey S. Balabanian (*PRO HAC VICE*)
rbalabanian@edelson.com
Benjamin H. Richman (*PRO HAC VICE*)
brichman@edelson.com
J. Dominick Larry (*PRO HAC VICE*)
nlarry@edelson.com
EDELSON PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

Samuel M. Lasser (SBN – 252754)
slasser@edelson.com
EDELSON PC
1934 Divisadero Street
San Francisco, California 94115
Tel: 415.994.9930
Fax: 415.776.8047

Attorneys for Plaintiff David Hunter

By: /s/ Daniel J. Stephenson

Daniel J. Stephenson
DYKEMA GOSSETT LLP
333 South Grand Avenue, Suite 2100
Los Angeles, CA 90071
Phone: (213) 457-1800
Fax: (213) 457-1850
dstephenson@dykema.com

Attorneys for Defendant Lenovo (United States), Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated:

Honorable Nathanael M. Cousins
United States Magistrate Judge

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

ATTESTATION PURSUANT TO LOCAL RULE 5-1(i)(3)

I, Rodger R. Cole, am the ECF User whose identification and password are being used to file this **STIPULATION FOR CONTINUANCE OF TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT AND [PROPOSED] ORDER**. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all signatories have concurred in this filing.

Dated: March 19, 2015

/s/ Rodger R. Cole

Rodger R. Cole

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on the 19th day of March, 2015, I caused the foregoing document to be filed with the Court, and have caused a copy to be served on:

<p>Rafey S. Balabanian rbalabanian@edelson.com Benjamin H. Richman brichman@edelson.com J. Dominick Larry nlarry@edelson.com EDELSON PC 350 North LaSalle Street, Suite 1300 Chicago, Illinois 60654 Tel: 312.589.6370 Fax: 312.589.6378</p> <p>Samuel M. Lasser slasser@edelson.com EDELSON PC 1934 Divisadero Street San Francisco, California 94115 Tel: 415.994.9930 Fax: 415.776.8047</p> <p>Attorneys for Plaintiff</p>	<p><input checked="" type="checkbox"/> By CM/ECF <input type="checkbox"/> United States Mail, First Class <input type="checkbox"/> By Messenger <input type="checkbox"/> By Facsimile <input type="checkbox"/> By Overnight Courier <input type="checkbox"/> By Email</p>
<p>Daniel J. Stephenson DYKEMA GOSSETT LLP 333 South Grand Avenue, Suite 2100 Los Angeles, CA 90071 Phone: (213) 457-1800 Fax: (213) 457-1850 dstephenson@dykema.com</p> <p>Attorneys for Defendant Lenovo (United States), Inc.</p>	<p><input type="checkbox"/> By CM/ECF <input type="checkbox"/> United States Mail, First Class <input type="checkbox"/> By Messenger <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Overnight Courier <input checked="" type="checkbox"/> By Email</p>

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